

FIRST EXTRAORDINARY SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 1

93RD GENERAL ASSEMBLY

2005

2508S.01T

AN ACT

To repeal section 188.080, RSMo, and to enact in lieu thereof three new sections relating to abortion, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 188.080, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 188.031, 188.080, and 188.250, to read as follows:

188.031. For purposes of section 188.028, the term "next friend" shall not include another minor child, or any entity or person in an individual or representative capacity that has a financial interest or potential gain from the proposed abortion, or any employee of or volunteer for such entity or person.

188.080. [Notwithstanding any other penalty provision in this chapter,] Any person who is not a [licensed] physician [as defined in section 188.015] who performs or induces or attempts to perform or induce an abortion on another [as defined in subdivision (1) of section 188.015,] is guilty of a class B felony, and, upon conviction, shall be punished as provided by law. Any physician performing or inducing an abortion who does not have [surgical] clinical privileges at a hospital which offers obstetrical or gynecological care located within thirty miles of the location at which the abortion is performed or induced shall be guilty of a class [B felony] A misdemeanor, and, upon conviction shall be punished as provided by law.

188.250. 1. No person shall intentionally cause, aid, or assist a minor to obtain an abortion without the consent or consents required by section 188.028.

2. A person who violates subsection 1 of this section shall be civilly liable

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

to the minor and to the person or persons required to give the consent or consents under section 188.028. A court may award damages to the person or persons adversely affected by a violation of subsection 1 of this section, including compensation for emotional injury without the need for personal presence at the act or event, and the court may further award attorneys' fees, litigation costs, and punitive damages. Any adult who engages in or consents to another person engaging in a sex act with a minor in violation of the provisions of chapters 566, 567, 568, or 573, RSMo, which results in the minor's pregnancy shall not be awarded damages under this section.

3. It shall not be a defense to a claim brought under this section that the abortion was performed or induced pursuant to consent to the abortion given in a manner that is otherwise lawful in the state or place where the abortion was performed or induced.

4. An unemancipated minor does not have capacity to consent to any action in violation of this section or section 188.028.

5. A court may enjoin conduct that would be in violation of this section upon petition by the attorney general, a prosecuting or circuit attorney, or any person adversely affected or who reasonably may be adversely affected by such conduct, upon a showing that such conduct:

(1) Is reasonably anticipated to occur in the future; or

(2) Has occurred in the past, whether with the same minor or others, and that it is not unreasonable to expect that such conduct will be repeated.

Section B. Because of the need to ensure the health and safety of any person obtaining an abortion and to ensure compliance with existing abortion regulations, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

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